

BIDDER INSTRUCTIONS

EXHIBIT A

DISADVANTAGED

BUSINESS ENTERPRISES

EXHIBIT A

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

(August 6, 2001)

Voluntary Disadvantaged Business Enterprise (DBE) Participation

The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR part 26 apply to this contract. The purpose of including a voluntary goal in this contract is to draw attention to opportunities for DBE participation. The requirements of this contract are to report what is accomplished to enable the Contracting Agency to track achievement. No preference will be included in the evaluation of bids/proposals, no minimum level of DBE participation shall be required as a condition for receiving an award and bids/proposals will not be rejected or considered non-responsive on that basis.

Voluntary DBE Goal

The Contracting Agency has established a voluntary goal in the amount of:

(WSF will advise all bidders of the DBE goal status by IFB Addendum.)

Affirmative Efforts to Increase DBE Participation Through Voluntary Means

Contractors are encouraged to:

1. Advertise opportunities for subcontractors or suppliers in a manner reasonably designed to provide DBEs capable of performing the work with timely notice of such opportunities. All advertisements should include a provision encouraging participation by DBE firms and may be done through general advertisements (e.g., newspapers, journals, etc.) or by soliciting bids/proposals directly from DBEs.
2. Utilize the services of available minority community organizations, minority contractor groups, local minority assistance offices and organizations that provide assistance in the recruitment and placement of DBEs and other small businesses.

In addition, the Office of Minority and Women's Business Enterprises has three DBE Support Services Offices available to assist you as follows:

Olympia:	(360) 753-9693	Fax:	(360) 586-7079
Seattle:	(206) 553-7356	Fax:	(206) 553-0194
Wenatchee:	(509) 665-3528	Fax:	(509) 665-3533

3. Establish delivery schedules, where requirements of the contract allow, that encourage participation by DBEs and other small businesses.

- 1
2 4. Achieve DBE attainment through joint ventures. Attainment will be as
3 noted in section "Counting DBE Participation."
4

5 **DBE Eligibility (for reporting purposes only)**
6

7 **Definition of DBEs**

8 DBE status is designated by:
9

10 The current list of firms accepted as certified by the Office of Minority and
11 Women's Business Enterprises (OMWBE.) A list of firms accepted as
12 certified by OMWBE is available from that office at (360) 704-1180 or on
13 line through their web site at (www.wsdot.wa.gov/omwbe/).
14

15 **DBE Participation**
16

17 When a DBE participates in a contract, only the value of the work actually
18 performed by the DBE will be counted.
19

- 20 1. Count the entire amount of the portion of the contract that is performed by the
21 DBE's own forces. Include the cost of supplies and materials obtained by the
22 DBE for the work of the contract. Include supplies purchased or equipment
23 leased by the DBE. Exclude supplies and equipment the DBE subcontractor
24 purchases or leases from the Contractor or its affiliate.
25
26 2. Count the entire amount of fees or commissions charged by a DBE firm for
27 providing a bona fide service, such as professional, technical, consultant, or
28 managerial services, or for providing bonds or insurance, provided the fees are
29 reasonable.
30
31 3. When a DBE subcontracts part of the work of its contract to another firm, the
32 value of the subcontracted work shall be counted if the DBE's subcontractor is
33 also a DBE. The work that a DBE subcontracts to a non-DBE firm does not
34 count as participation.
35

36 **DBE Prime Contractor**
37

38 A DBE prime contractor shall only count the work performed with its own forces
39 as well as the work performed by DBE subcontractors and DBE suppliers.
40

41 **Joint Venture**
42

43 When a DBE performs as a participant in a joint venture, only count that portion of
44 the total dollar value of the contract equal to the distinct, clearly defined portion of
45 the work that the DBE performs with its own forces.
46

Commercially Useful Function

You may count expenditures to a DBE contractor if the DBE is performing a commercially useful function on that contract.

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (if applicable) and paying for the material itself.
2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.
3. A DBE does not perform a commercially useful function if it fails to exercise responsibility with its own work force for at least 30 percent of the total cost of its contract.

Trucking

Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible for on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goals.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck that is used on the contract.
3. Credit towards project goals for DBE trucking firms who do not own at least one truck, will be granted only for the fees the DBE firm retains for providing the hauling service.
4. In order for DBE project goals to be credited, DBE trucking firms must be covered by a subcontract or a written agreement approved by WSDOT prior to performing their portion of the work.

- 1
2 5. DBE trucking firms are required to perform at least fifty percent (50%) of
3 the work with his/her own trucks and personnel.
4
5 6. DBE trucking firms may utilize owner/operator trucks. The number of
6 owner/operator trucks may not exceed any limitations on subletting or
7 reassigning the work specified. All owner/operators must appear on the
8 DBE contractor's or DBE subcontractor's payroll designated as
9 owner/operator. The hours worked or wages paid may be reflected either
10 on the payroll or on the record of payments to each owner/operator.
11
12 7. DBE trucking firms may lease or rent trucks from other sources, except
13 from prime contractors to whom they are contractors, provided:
14
15 a) A written valid lease/rental agreement on all trucks leased or
16 rented is submitted to the project manager prior to the beginning
17 of work; and
18
19 b) Only the vehicle (not the operator) is leased or rented.
20
21 c) The agreement must include the lessor's name, trucks to be
22 leased, and agreed upon amount or method of payment (hour, ton
23 or load hauled).
24
25 d) All lease agreements shall be long-term agreements, not project-
26 by-project.
27

28 The DBE is limited to leasing or renting two (2) additional trucks for each
29 truck owned by the DBE trucking firm.
30

31 **Expenditures with DBEs**

32
33 Expenditures with DBEs for materials or supplies shall be counted as provided in
34 the following:
35

36 **Manufacturer**

37 If the materials or supplies are obtained from a DBE manufacturer, count 100
38 percent of the cost of the materials or supplies.
39

40 **Regular Dealer**

41 1. Counting

42 If the materials or supplies are purchased from a DBE regular dealer, count
43 60 percent of the cost of the materials or supplies.
44

1
2 2. Definition

- 3 a) To be a regular dealer, the firm must be an established, regular
4 business that engages, as its principal business and under its own
5 name, in the purchase and sale or lease of the products in question.
6
7 b) A person may be a regular dealer in such bulk items as petroleum
8 products, steel, cement, gravel, stone, or asphalt without owning,
9 operating, or maintaining a place of business, as provided elsewhere
10 in this specification, if the person both owns and operates distribution
11 equipment for the products. Any supplementing of regular dealers'
12 own distribution equipment shall be by a long-term lease agreement
13 and not on an ad hoc or contract-by-contract basis.
14
15 c) Packagers, brokers, manufacturers' representatives, or other persons
16 who arrange or expedite transactions are not regular dealers.
17

18 **Purchased from a DBE**

19
20 With respect to materials or supplies purchased from a DBE who is neither a
21 manufacturer nor a regular dealer, count the entire amount of fees or commissions
22 charged for assistance in the procurement of the materials and supplies, or fees or
23 transportation charges for the delivery of materials or supplies required on a job
24 site, provided the fees are reasonable and typical for the services rendered. No part
25 of the cost of the materials and supplies themselves shall be counted.
26

27 **Procedures Between Award and Execution**

28
29 After award and prior to execution of the contract, the Contractor shall provide the
30 names and addresses of all firms that submitted a bid or quote to the contractor as
31 part of bidding this contract and note which of those firms were successful and will
32 participate in the contract. These firms may be contacted to solicit general
33 information as follows:
34

- 35 1. Age of the firm.
36
37 2. Average of its gross annual receipts.
38 This information is necessary to maintain a bidder's list in compliance
39 with the requirements of the 49 CFR, Part 26. Simply stated: who is
40 soliciting the work and what is their capacity? The contracting agency
41 will use this information to accurately determine an overall goal based on
42 the percentage of DBEs who are ready, willing and able to perform the
43 work.
44

1
2 **Reporting**
3

4 The contractor shall submit a “Quarterly Report of Amounts Credited as DBE
5 Participation” on a quarterly basis for every quarter in which the contract is active
6 (work is accomplished) or upon completion of the project, as appropriate. The
7 quarterly reports are due on the 20th of April, July, October, and January for the
8 four respective quarters. The dollars reported will be in accordance with the “DBE
9 Eligibility” section of this specification.

10
11 **Payment**
12

13 Payment for complying with the conditions of this specification and any associated
14 DBE requirements is the contractor’s responsibility. Those costs shall be incidental
15 to the respective bid items.

16
17 **Further Information**
18

19 If further information is desired concerning Disadvantaged Business Enterprise
20 participation, inquiry may be directed to:

21
22 External Civil Rights Branch
23 Office of Equal Opportunity
24 Washington State Department of Transportation
25 Transportation Bldg., P.O. Box 47314
26 Olympia, WA 98504-7314

27
28 Phone: (360) 705-7085
29 Fax: (360) 705-6801
30